
SENATE BILL No. 374

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-8; IC 6-8.1-1-1; IC 21-3-1.7-3.1.

Synopsis: School option income tax. Permits a school corporation to impose a local option income tax for education of up to 1% on the adjusted gross income of resident taxpayers. Provides that the school option income tax must be approved by local public question in a general election. Provides that the tax may be imposed or increased only after approval by local public question. Provides for the distribution of school option income tax revenue. Excludes school option income tax revenue from the school corporation's previous year revenue for purposes of determining state tuition support.

Effective: July 1, 2001.

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January 18, 2001, read first time and referred to Committee on Rules and Legislative Procedure.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 374

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:

4 **Chapter 8. School Option Income Tax**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Adjusted gross income" has the meaning set forth in
7 IC 6-3-1-3.5.

8 (2) "Department" refers to the department of state revenue.

9 (3) "Public question" has the meaning set forth in IC 3-5-2-41.

10 (4) "Resident taxpayer", as it relates to a particular school
11 corporation, means an individual who resides in that school
12 corporation. An individual resides in the school corporation
13 in which the individual:

14 (A) maintains a home, if the individual maintains only one

15 (1) home in Indiana;

16 (B) is registered to vote;

17 (C) registers the individual's personal automobile; or



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1 (D) spends the majority of the individual's time in Indiana
2 during the taxable year in question.

3 (5) "School corporation" has the meaning set forth in
4 IC 36-1-2-17.

5 (6) "School district" has the meaning set forth in IC 3-5-2-47.

6 (7) "School year" means a twelve (12) month period
7 beginning July 1 of a year.

8 Sec. 2. (a) Using the procedures described in this chapter, a
9 governing body of a school corporation may adopt an ordinance to:

- 10 (1) impose a school option income tax in the school district;
11 (2) increase a school option income tax rate;
12 (3) decrease the school option income tax rate, subject to
13 section 6 of this chapter; or
14 (4) rescind the school option income tax, subject to section 5
15 of this chapter.

16 (b) An ordinance adopted in a particular year under this
17 chapter to:

- 18 (1) impose a school option income tax; or
19 (2) increase or decrease the school option income tax rate;
20 is effective January 1 of the year immediately following adoption
21 of the ordinance. An ordinance adopted under this chapter to
22 rescind a school option income tax is effective upon its adoption.

23 (c) The school option income tax may not be imposed at or
24 increased to a rate that exceeds one percent (1%). Each increase or
25 decrease in the school option income tax rate must be in multiples
26 of one-tenth of one percent (0.1%). The governing body of a school
27 corporation may impose the tax or increase or decrease the tax
28 rate only as provided in sections 3 and 6 of this chapter.

29 (d) The governing body of a school corporation shall give notice
30 of an action under this chapter to the state board of tax
31 commissioners and the department not more than five (5) business
32 days after adopting an ordinance under this chapter.

33 Sec. 3. (a) Before a governing body of a school corporation may
34 adopt an ordinance under this chapter to impose a school option
35 income tax or to increase the school option income tax rate to a
36 rate higher than the rate at which the school option income tax was
37 imposed, the governing body shall cause a local public question to
38 be placed on a general election ballot in accordance with the
39 procedure described in IC 3-10-9.

40 (b) The local public question must include the text of the
41 proposed ordinance and must specify:

- 42 (1) whether the governing body of a school corporation seeks

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to impose a school option income tax or to increase the school option income tax rate to a rate higher than the rate at which the school option income tax was imposed; and
 (2) the rate at which the tax will be imposed or to which it will be increased.

(c) The governing body of a school corporation may adopt an ordinance under this chapter to impose a school option income tax or to increase the school option income tax rate to a rate higher than the rate at which the school option income tax was imposed only if a majority of the electorate participating in the general election votes to adopt the ordinance. If a majority of the electorate participating in the general election votes to adopt the ordinance, the governing body of the school corporation shall adopt the ordinance before December 1 of the year in which the local public question was placed on the ballot.

(d) The governing body of a school corporation may adopt an ordinance under this chapter to:

- (1) rescind a school option income tax;
- (2) decrease the school option income tax rate; or
- (3) increase the school option income tax rate to a rate lower than or equal to the rate at which the school option income tax was imposed under subsection (c);

at any time and without notice.

Sec. 4. The governing body of a school corporation shall impose a school option income tax on the adjusted gross income of resident taxpayers residing in the school corporation effective January 1 of the year following the general election in which a majority of the electorate participating in the general election voted to adopt an ordinance to impose a school option income tax under the procedure set forth in section 3(b) of this chapter.

Sec. 5. (a) The school option income tax imposed under this chapter by a governing body of a school corporation remains in effect until rescinded by the governing body.

(b) A governing body of a school corporation may rescind the school option income tax by passing an ordinance to rescind the tax after July 1 but before December 1 of a year. The governing body may rescind the tax without causing a public question to be placed on a general election ballot.

(c) If the governing body of a school corporation has pledged school option income tax revenue for any purpose permitted by statute, the governing body may not rescind a school option income tax or take any special action that would result in the school

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corporation receiving a distributive share under section 10 of this chapter smaller than the distributive share to which the school corporation was entitled when it pledged the school option income tax revenue.

Sec. 6. (a) Subject to subsection (b), a governing body of a school corporation may decrease the school option income tax rate at any time and without notice.

(b) A governing body of a school corporation may not decrease the school option income tax if the school corporation has pledged the school option income tax for any purpose permitted by IC 5-1-14 or any other statute.

Sec. 7. This section applies to a resident taxpayer whose school option income tax rate changed due to an action taken by the governing body of a school corporation under section 4 of this chapter. The resident taxpayer's school option income tax rate for that school corporation and that taxable year is the rate determined in the last STEP of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede January 1 by the rate in effect before the rate change.

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow December 31 by the rate in effect after the rate change.

STEP THREE: Divide the sum of the amounts determined under STEPS ONE and TWO by twelve (12).

Sec. 8. (a) This section applies to a taxpayer who, in a taxable year:

(1) resides in a school corporation whose governing body adopts an ordinance to impose a school option income tax during that taxable year; or

(2) moves into a school corporation that has adopted an ordinance to impose a school option income tax.

(b) The amount of school option income tax that a taxpayer described in subsection (a) owes for that taxable year equals the product of:

(1) the amount of school option income tax the resident taxpayer would owe if the tax had been imposed on the taxpayer during the resident taxpayer's entire taxable year; multiplied by

(2) a fraction, the numerator of which equals the number of days in the resident taxpayer's taxable year during which the school option income tax was in effect, and the denominator

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1 of which equals the total number of days in the resident
2 taxpayer's taxable year.

3 **Sec. 9. (a)** A special account within the state general fund shall
4 be established for each school corporation that adopts a school
5 option income tax. Any revenue derived from the imposition of the
6 school option income tax by the governing body of a school
7 corporation shall be deposited in that school corporation's account
8 in the state general fund.

9 (b) Any income earned on money held in an account under
10 subsection (a) becomes a part of that account.

11 (c) Any revenue remaining in an account established under
12 subsection (a) at the end of a fiscal year does not revert to the state
13 general fund.

14 (d) The revenue a school corporation receives under this
15 chapter may be used to fund any lawful purpose of the school
16 corporation. The revenue a school corporation receives under this
17 chapter is not part of the school corporation's previous year
18 revenue (as defined in IC 21-3-1.7-3.1).

19 **Sec. 10. (a)** Revenue derived from the imposition of a school
20 option income tax shall be distributed in the manner prescribed by
21 this section to the school corporation whose governing body
22 imposed the tax. The amount that is to be distributed to a school
23 corporation during a calendar year equals the amount of school
24 option income tax revenue that the department, after reviewing the
25 recommendation of the budget agency, estimates will be received
26 from that school corporation during the school year.

27 (b) This subsection applies to a school corporation that has
28 adopted an ordinance to impose a school option income tax or to
29 increase or decrease the school option income tax rate ("adopting
30 school corporation"). Before July 1 of each calendar year for
31 which a school option income tax has been imposed, the
32 department shall review the recommendation of the budget agency
33 and shall estimate and certify to the governing body of the
34 adopting school corporation and to the auditor of the county in
35 which the adopting school corporation is located the amount of
36 school option income tax revenue that will be collected from the
37 resident taxpayers of the school corporation during the school
38 year.

39 (c) This subsection applies to a school corporation that has
40 caused a local public question described in section 3 of this chapter
41 to be placed on a general election ballot but whose governing body
42 has not adopted an ordinance to impose a school option income tax

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or to increase or decrease the school option income tax rate ("electing school corporation"). Before December 15 of a year in which a local public question described in section 3 of this chapter is placed on a general election ballot, the department shall review the recommendation of the budget agency and estimate the amount of school option income tax revenue that will be collected from the resident taxpayers of the electing school corporation during the period beginning on the date when the school option income tax is imposed and ending on June 30 of the year in which the school option income tax is imposed. The department shall multiply this amount by two (2) and certify the doubled amount to the governing body of an electing school corporation and to the county auditor of the county in which the electing school corporation is located.

(d) The amount certified under subsection (b) or (c) is the school corporation's certified distribution for the immediately succeeding calendar year. The amount certified may be adjusted under subsection (e) or (f).

(e) The department may certify to an adopting school corporation an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the budget agency, determines that there will be a greater amount of revenue available for distribution from the school corporation's account established under section 9 of this chapter.

(f) The department may certify an amount less than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the school corporation will receive its full certified distribution for the current calendar year.

(g) One-twelfth (1/12) of each adopting school corporation's certified distribution for a school year shall be distributed from the account established under section 9 of this chapter to the school corporation on the first day of each month of the school year.

(h) All distributions from an account established under section 9 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

Sec. 11. (a) Using procedures provided under this chapter, the governing body of a school corporation may adopt an ordinance to enter into reciprocity agreements with the taxing authority of any

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city, town, municipality, county, or other similar local governmental entity of any other state. The reciprocity agreements must provide that the income of taxpayers is exempt from income taxation by the other local governmental entity to the extent that income of the residents of the other local governmental entity is exempt from the school option income tax in the adopting school corporation.

(b) A reciprocity agreement adopted under this section may not become effective until it is also made effective in the other local governmental entity that is a party to the agreement.

(c) The department shall approve the form and effective date of any reciprocity agreement described in this section.

Sec. 12. (a) All provisions of the adjusted gross income tax law (IC 6-3) concerning:

- (1) definitions;
- (2) declarations of estimated tax;
- (3) filing of returns;
- (4) deductions or exemptions from adjusted gross income;
- (5) remittances;
- (6) incorporation of the provisions of the Internal Revenue Code;
- (7) penalties and interest; and
- (8) exclusion of military pay credits for withholding;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

(b) The tax imposed under this chapter is a listed tax for purposes of IC 6-8.1.

(c) Notwithstanding subsection (a), each employer shall report to the department and the school corporation the amount of withholdings attributable to each school corporation. This report shall be submitted at the same time that the employer submits the employer's other withholding report to the department.

Sec. 13. (a) Except as provided in subsection (b), if, for a particular taxable year, a taxpayer is liable for an income tax imposed by a school corporation located outside Indiana, that taxpayer is entitled to a credit against the taxpayer's school option income tax liability for that same taxable year. The amount of the credit equals the amount of tax imposed by the other governmental entity on income derived from sources outside Indiana and subject to the school option income tax. However, the credit provided by this section may not reduce a taxpayer's school option income tax liability to an amount less than the taxpayer would have owed if

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the income subject to taxation by the other governmental entity had been ignored.

(b) The credit provided by this section does not apply to a taxpayer to the extent that the other governmental entity provides for a credit to the taxpayer for the amount of school option income tax owed under this chapter.

(c) To claim the credit provided by this section, a taxpayer must provide the department with satisfactory evidence that the taxpayer is entitled to the credit.

Sec. 14. (a) If for a particular taxable year a resident taxpayer is, or a resident taxpayer and the taxpayer's spouse who file a joint return are, allowed a credit for the elderly or the totally disabled under Section 22 of the Internal Revenue Code, the resident taxpayer is, or the resident taxpayer and the taxpayer's spouse are, entitled to a credit against the school option income tax liability for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the credit for the elderly or the totally disabled for that same taxable year; multiplied by

(B) a fraction, the numerator of which is the school option income tax rate imposed against the resident taxpayer, or against the resident taxpayer and the taxpayer's spouse, and the denominator of which is fifteen-hundredths (0.15); or

(2) the amount of school option income tax imposed on the resident taxpayer, or on the resident taxpayer and the taxpayer's spouse.

(b) If a resident taxpayer and the taxpayer's spouse file a joint return and are subject to different school option income tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) school option income tax rates imposed against them as the numerator referred to in subsection (a)(1)(B).

Sec. 15. Notwithstanding any other law, if a school corporation desires to issue obligations, or enter into leases, payable wholly or in part by the school option income tax, the obligations of the school corporation or any lessor may be sold at public sale in accordance with IC 5-1-11 or at negotiated sale.

Sec. 16. A school option income tax imposed under this chapter expires ten (10) years after its effective date.



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SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.181-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); **the school option income tax (IC 6-3.5-8)**; the auto rental excise tax (IC 6-6-9); the bank tax (IC 6-5-10); the savings and loan association tax (IC 6-5-11); the production credit association tax (IC 6-5-12); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 3. IC 21-3-1.7-3.1, AS AMENDED BY P.L.3-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

- (1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:
 - (A) special education grants;
 - (B) vocational education grants;
 - (C) at-risk programs;
 - (D) the enrollment adjustment grant;
 - (E) for 1999 and thereafter, the academic honors diploma



- 1 award; and
 2 (F) for 2001 and thereafter, the primetime distribution;
 3 for the year that precedes the current year; plus
 4 (2) the school corporation's tuition support levy for the year that
 5 precedes the current year before the reductions required under
 6 section 5(1), 5(2), and 5(3) of this chapter; plus
 7 (3) the school corporation's excise tax revenue for the year that
 8 precedes the current year by two (2) years; minus
 9 (4) an amount equal to the reduction in the school corporation's
 10 tuition support under subsection (b) or IC 20-10.1-2-1, or both.
 11 (b) A school corporation's previous year revenue shall be reduced
 12 if:
 13 (1) the school corporation's state tuition support for special or
 14 vocational education was reduced as a result of a complaint being
 15 filed with the department of education after December 31, 1988,
 16 because the school program overstated the number of children
 17 enrolled in special or vocational education programs; and
 18 (2) the school corporation's previous year revenue has not been
 19 reduced under this subsection more than one (1) time because of
 20 a given overstatement.
 21 The amount of the reduction equals the amount the school corporation
 22 would have received in tuition support for special and vocational
 23 education because of the overstatement.
 24 **(c) A school corporation's previous year revenue does not**
 25 **include revenue received under IC 6-3.5-8.**

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